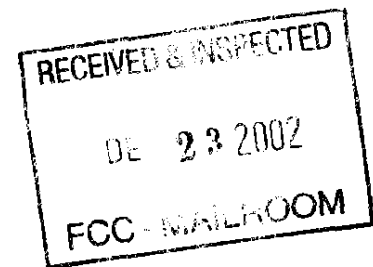


EX PARTE OR LATE FILED

**RONAN TELEPHONE COMPANY**

312 MAIN STREET SOUTHWEST • RONAN, MONTANA 59864  
(406)676-2751 • FAX NO (406) 676-8889



December 20, 2002

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12th Street, **SW**, Room 8 B201  
Washington, DC 20554

The Honorable Kevin J. Martin  
Commissioner  
Federal Communications Commission  
445 12th Street, SW, Room 8 A204  
Washington, DC 20554

The Honorable Kathleen Q. Abemathy  
Commissioner  
Federal Communications Commission  
445 12th Street, **SW**, Room 8 B115  
Washington, DC 20554

The Honorable Jonathan S. Adelstein  
Commissioner  
Federal Communications Commission  
445 12th Street, SW, Room 8 C302  
Washington, DC 20554

The Honorable Michael J. Copps  
Commissioner  
Federal Communications Commission  
445 12th Street, SW, Room 8 A302  
Washington, DC 20554

Re **In the Matter of the Application by Qwest Communications International, Inc.  
For Authorization Under Section 271 of the Communications Act to Provide  
In-Region, InterLATA Service in the States of Colorado, Idaho, Iowa, Montana,  
Nebraska, North Dakota, Utah, Washington, and Wyoming,  
WC Docket Nos. 02-314, 02-189, and 02-148**

**Ex Parte Presentation**

Dear Commissioners:

I write to follow up on the letter presented Ex-Parte in the above named Docket dated December 18, 2002 regarding possible violations of Section 271 of the Act by Qwest prior to approval of their application. Enclosed is the sworn declaration of Roger Romero regarding his investigation of traffic delivered to Ronan Telephone Company (RTC) that RTC suspects is in violation by virtue

that is appears to be in-region InterLATA traffic carried by Qwest. Also enclosed is a data file (either sent electronically, on a diskette, or printed) showing 17,334 calls that were: 1) carried by Qwest's carrier number 0432; 2) Originated within Qwest's 14 state incumbent **LEC** region; and 3) Terminated in either Ronan, Montana, Pablo, Montana or Hot Springs, Montana, all of which are within Qwest's incumbent region.

Based on a manual scan of one day's calling data of suspect calls, we believe that approximately 20% of the calls submitted are likely in violation, as that was the percentage of the calls we manually researched that originated from exchanges assigned to either Mountain Bell, Pacific Northwest Bell or Northwest Bell.

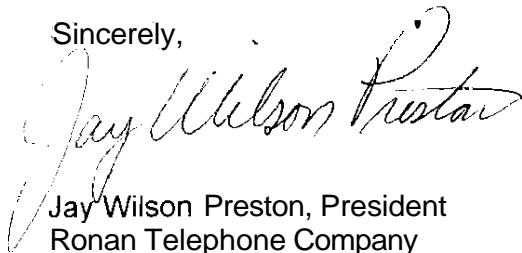
The call detail information has been altered to mask the identity of both the calling party and the called party in order for this filing to be in compliance with the Customer Proprietary Network Information (CPNI) rules of the Commission. This information is also being provided to Qwest, specifically to Rick Hays, State President, Montana in Helena, Montana.

We hope this information is helpful in your deliberations in considering the Qwest **271** application. While we acknowledge that this information does not conclusively prove that Qwest is operating in violation of Section 271, we feel that it provides probable cause to deny their application until such time as Qwest can conclusively prove that none of these calls were carried in violation of the law.

We are available at any time to answer your questions or provide any further information which we may be able to provide. Please contact Jay Preston, President of Ronan Telephone, at 406-676-9212, or our regulatory attorney, Ivan C. Evilsizer, at 406-442-7115.

Thank you for your attention to this matter.

Sincerely,



Jay Wilson Preston, President  
Ronan Telephone Company

cc: William Maher  
Gary Remondino  
Elizabeth Yockus  
Jordan Goldstein  
Sam Feder  
Christopher Libertelli

---

FCC Commissioners

December 18, 2002

Page 3

Lisa Zaina

Nancy M. Goodman, U.S. Department of Justice

Mr. Ryan Harsch, U.S. Department of Justice

Montana Public Service Commission

Rick Hays - Qwest Communication

Kristine Nuzum. Dow Jones Newswires

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
)  
Application of Qwest Communications )  
International, Inc. For Authorization to Provide ) WC Docket No. 02-314  
In-Region, InterLATA Service in the States )  
of Colorado, Idaho, Iowa, Montana, Nebraska, )  
North Dakota, Utah, Washington and Wyoming )

**DECLARATION OF ROGER ROMERO**

I, Roger Romero, being first duly sworn, do hereby declare as follows:

1. I am the Data Processing Manager for Ronan Telephone Company (RTC), and ~~am~~ responsible for the administration and processing of all calling records, ~~as~~ well as all data processing programming for Ronan Telephone Company. I am the custodian ~~of~~ the computer calling records for RTC.

2. I have conducted an analysis of calling records for traffic that was terminated by RTC from the Qwest "Feature Group D SS7 trunk group" which delivers calls from the Qwest IntraLATA network to the Ronan tandem central office switch. The information I analyzed was derived from two sources: 1) call records recorded by RTC for access billing purposes at the Ronan tandem switch; and 2) call record data recorded by and processed by Qwest that is sent to RTC by Qwest via Qwest's "COMET" system, which is also used in the Carrier access billing process.

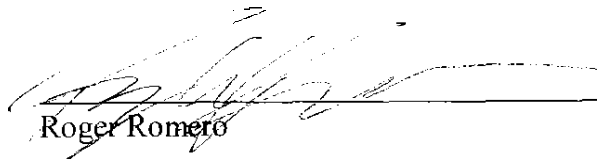
3. My analysis of the data recorded by RTC revealed that Qwest transmitted 49,684 calls to RTC between June 16, 2002 and December 20, 2002 for termination to RTC to end users in the communities of Ronan, Pablo and Hot Springs (all in Montana) which originated outside of Montana and within the 14 state Qwest incumbent ILEC region (ie. InterLATA in-Region traffic). Additional analysis I conducted of call data supplied by Qwest via their COMET system for this traffic revealed that 17,334 of these calls completed between August 14 and December 13, 2002 were identified as being carried by Carrier Code 0432, which is reserved by Qwest.

4. Provided with this Declaration, is a computer file (in ASCII format) containing detailed call record information for each call which I believe was: 1) carried by Carrier 0432; 2) originated within Qwest's 14 state incumbent ILEC region outside of the Western Montana

LATA; and 3) terminated to end users in Ronan, Pablo or Hot Springs, Montana. This includes a total of 17,334 interLATA calls made during the time period between August 14, 2002, and December 13, 2002 which originate and terminate within the Qwest 14 state region and carried by Qwest's Carrier 0432. The data source for the calls included in the computer Ne was the Qwest COMET system. My conclusions are based upon the NPA and NXX of the originating telephone numbers and the terminating telephone numbers, both as recorded by RTC and as confirmed by the COMET data sent to RTC by Qwest.

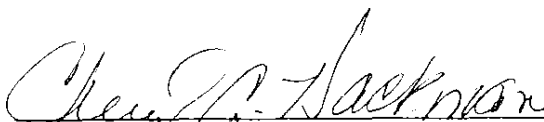
DATED: December 20, 2002

Subscribed and Sworn to this 20th day of December, 2002

  
Roger Romero  
Date 12/20/02

State of Montana County of Lake

Subscribe and sworn before me this 20 day of Dec, 2002 by

  
Cheryl A. Hackman

Notary Public Ronny, MT

My Commission expires: Oct 25 2003



THE OFFICE OF IVAN C. EVILSIZER  
ATTORNEY AT LAW  
2033 ELEVENTH AVENUE  
HELENA, MONTANA 59601 4875  
14061 442 7115  
FAX (406) 442-23 7  
E MAIL EVILSIZER2@AOL.COM

BY ECFS

December 20, 2002

Marlene H Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: **In** the Matter of the Application **by** **Qwest** Communications International, **Inc.**  
For Authorization Under Section 271 of the Communications Act to Provide  
In-Region, **InterLATA** Service in **the** States of Colorado, Idaho, Iowa, Montana,  
Nebraska, North Dakota, Utah, Washington, and Wyoming,  
WC Docket No. 02-314

**Ex Parte Presentation**

Dear Ms. Dortch:

The following is a response to the **ex parte** letter submitted to the Commission by Qwest Communications on December 19, 2002 (signed by Rick Hays). Qwest's letter **is** a response to the information filed with the Commission by Ronan Telephone Company on December 18, 2002, regarding in-region interLATA traffic

Ronan Telephone Company (RTC) has provided information regarding alleged in-Region traffic, handled by Qwest in violation of Section 271 of the Telecommunications Act. RTC has consistently maintained that because of the data limitations, and alternative legal interpretations, it cannot **prove** with absolute certainty that Section 271 violations have occurred, **but**, RTC adamantly maintains that the information it has provided is strongly indicative of potential violations, which deserve the Commission's **full** and complete analysis and investigation *before* a decision is made on the pending application.

Ronan Telephone is a small family **owned** business (ILEC) which **has** provided local telephone service to the residents of the Mission Valley of Montana for over 40 years. As a very small independent company, RTC cannot hope to compete with the financial and political clout of

Ex Parte Letter  
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Qwest at the national level. But, we hope the information we provide is helpful **to** the Commission. If it is shown that in fact illegal activities have occurred, we do not believe that Qwest should be rewarded for its conduct by approving the 271 application.

During our informal discussions with Qwest, Qwest described potential explanations for the traffic, which might or might not apply to the traffic identified by RTC, and might or might not provide a legal justification. RTC acknowledges that further details are needed to prove its allegations, but also notes that Qwest is probably the only entity in possession of such information.

RTC is also filing with the Commission, a sworn Declaration by Roger Romero, the RTC Data Processing Manager, detailing the information RTC has discovered, along with a computer file containing detailed records of in-Region interLATA calls. Over a **six** month period, **RTC** has identified over 49,000 in-Region calls being terminated to the Ronan, Pablo **and** Hot Springs exchanges (with a total of approximately 5000 access lines), over the Qwest trunk; and over 17,000 of such calls **over a three month period** on the 0432 CIC Carrier Code reserved by Qwest. Since other traffic of this nature either terminates to other Qwest exchanges (since Qwest serves all the large population centers in its region), or is terminated over Feature Group C trunks which do not provide detailed calling number information (which is true of other ILECs in Montana, and possibly other ILECs in the region), the problem identified by RTC may in fact only be a **small** indicator of a **much** wider practice.

A number of statements in Qwest's letter contain mischaracterizations which require a response. First, RTC did not provide complete details regarding the calling information to Qwest, because RTC does not want to inadvertently violate the CPNI laws and rules **which** protect consumer **privacy** (47 U.S.C. 5222 and 47 C.F.R. §64.2001 et seq.). RTC therefore stripped off the last 4 digits of the telephone numbers and other information that might be used to specifically identify customers. Second, **all of the** calling information for calls over Qwest's trunk group are undoubtedly already in Qwest's possession; so there **certainly** should be no need to provide Qwest information which it already possesses. For example, the "**COMET**" data which **RTC** used to verify its findings is information received directly from Qwest.

Third, **RTC** did not refuse to provide further information, "because Qwest rejected" RTC's settlement proposal. During the conversation referred to by Qwest, RTC's Attorney made it clear that RTC would consider providing more detailed information **after** legal research on the CPNI issue by the parties' legal counsel, and the possibility of an agreement that could insure the confidentiality of the information without violating the **law**. It was stated **that** RTC **was** willing to work on **Qwest's** request for further information independently of all other issues we discussed (and **thus**, independently of the pending litigation). But even without the information RTC did not provide to Qwest, it is clear from the **NPA** and **NXX** originating the terminating numbers, that a significant amount of the traffic over Qwest's trunk terminating to Ronan, is interLATA traffic within Qwest's 14 state region. Furthermore, most of this **traffic** is carried on the "0432 CIC"

Carrier Code, which Qwest's July 16, 2002 letter indicates will be ordered and used for "interLATA retail toll" by Qwest's 272 subsidiary *following* 271 approval.'

Qwest further describes the negotiations between the parties regarding the pending litigation involving unpaid terminating access charges.<sup>2</sup> The primary issue in the litigation is Qwest's failure to pay terminating access charges for traffic which originates with wireless carriers (within the Major Trading Area) and carried as a transit carrier by Qwest and terminated to the Plaintiffs over Qwest trunk groups. The Ninth Circuit agreed with the Plaintiffs position in this case and reversed (and remanded) the District Court's previous ruling. However, Qwest has not paid RTC or Hot Springs for *any* of the traffic terminating on Qwest's trunk group (ie. all wireline and wireless traffic) for four years (and **has** paid **only** a portion of the traffic terminated by the other Plaintiffs). Furthermore, in **August** of this year, the traffic terminated by Qwest over its trunk group to RTC and Hot Springs Telephone *more than doubled*, and much of this traffic is interstate and in-Region wireline traffic (including over the 0432 CIC). It is therefore obvious to RTC that Qwest used the pendency of the litigation involving wireless-MTA traffic as a guise to avoid paying for a large amount of intrastate and interstate wireline traffic, and is funneling large amounts of traffic over this connection free of charge, in violation of federal and state tariff requirements.

Therefore, contrary to Qwest's statement, the information provided to the Commission herein is intricately related to the pending litigation between the parties, since it involves non-payment for traffic traversed over the same trunk facilities; and RTC intends to present this information to the U.S. District Judge in its case against Qwest. That is, in addition to the Section 271 issues, Qwest is failing to pay the full and correct tariffed interstate and intrastate rates for this traffic. Finally, we find it highly ironic that Qwest would suggest that linking two unrelated matters (which are in fact related), might be inappropriate, in light of Qwest's long, well documented history in Montana and other states, of linking unrelated matters in settlement agreements, and even obtaining agreements of parties not to appear before the Montana State Legislature (and the recent revelations regarding "secret agreements" with McLeod and Covad, not to oppose the Qwest-US West merger application).

In summary, we believe the issues raised by Ronan Telephone and other parties in this proceeding, need to be thoroughly investigated by the Commission before 271 approval is granted. In light of the statutory deadline, we therefore recommend that the current application be rejected and a new Docket considered after these issues are thoroughly investigated and addressed. We are available at any time to provide more detailed information to the Commission

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<sup>1</sup> See July 16, 2002 letter attached to RTC's December 18, 2002 *ex parte* filing

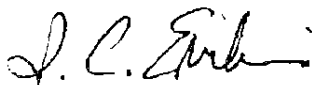
<sup>2</sup> *3 Rivers Telephone Cooperative v Qwest*, Case No. 01-05065, Memorandum Opinion, U.S. 9th Circuit Court of Appeals (August 27, 2002). This case was remanded to the U.S. District court in Montana, where it remains pending. Ronan Telephone Company, Hot Springs Telephone Company, and Lincoln Telephone Company (three of the nine Plaintiffs in that case) participated in the settlement discussions referenced by Qwest



Ex Parte Letter  
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December 20, 2002

We may be reached at 406-442-7115 (Ivan C. Evilsizer) and 406-676-9212 (Jay **Wilson** Preston)

Sincerely,



Ivan C. Evilsizer  
Attorney for Ronan Telephone Company, Hot **Springs** Telephone Company, and **Lincoln**  
Telephone **Company**

cc Chairman Powell (by **fax**)  
Commissioner Abernathy (by **fax**)  
Commissioner **Copps** (by fax)  
Commissioner *Martin* (by **fax**)  
C. Libertelli (by email)  
**M. Brill** (by email)  
J. Goldstein (by email)  
**S. Feder** (by email)  
J. Myles (by e-mail)  
**M. Carowitz** (by e-mail)  
G. Remondino (**by** e-mail)  
R. Harsh (**by e-mail**)  
J. Jewell (by e-mail)  
P. **Baker** (by **e-mail**)  
C. Post (by e-mail)  
P. Fahn (by e-mail)  
B. Smith (by e-mail)  
S. Vick (by e-mail)  
S. Oxley (by e-mail)  
Y. Dorí (by facsimile)  
**Qualex** International (by USPS mail)  
**Qwest** Communications, *Yaron*, Don, Hogan & Hartson (by Fax: **202-637-5910**)  
John Alke (**fax**)

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